



IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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OCT 21 2009

In re Application of
Richard Louis Arndt et al.
Application No. 10/674,985
Filed: September 30, 2003
Attorney Docket No.: AU920030601US1

: **OFFICE OF PETITIONS**

: **ON PETITION**

This is a decision on the petition filed March 24, 2009 under 37 CFR 1.137(a) which is being treated under CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed January 25, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned April 28, 2008. Accordingly, a Notice of Abandonment was mailed August 21, 2008.

As the petition form used was that for a petition under 37 CFR 1.137(a), the requirements for revival under the unavoidable standard have not been met. As well, since the fee authorization was for a fee under the unintentional standard, this petition has been treated under 37 CFR 1.137(b).

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to Technology Center 2144 for appropriate action on the amendment filed March 24, 2009.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions